IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 500 OF 2005

Ashok Jayantilal Khandwala ...Petitioner

Versus

State of Maharashtra & Anr ...Respondents

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Mr. Vivek Kantawala i/b M/s. Kantawala & Co. Advocate for Petitioner

Mr. Arshad Haindaday, Advocate for Respondent No.2.

Mr. Rajesh More, A.P.P. for State.

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CORAM: SMT. V.K. TAHILRAMANI, J.

DATED: 26TH JULY, 2005

P. C.:-

1. Heard the learned advocate for the petitioner, the learned advocate for the respondent No.2 i.e. original complainant and the learned A.P.P. for the State.

2. The petitioner has prayed for quashing of proceedings in Criminal Case No.1556/S of 2003 which is pending in the Court of learned Metropolitan Magistrate, 18th Court, Girgaum, Mumbai. In the said case, process has been issued against the petitioner under Section 138 of Negotiable Instruments Act. The learned advocate for the petitioner submitted that

the learned Magistrate committed an error in issuing process and the said process deserves to be set aside. If the process issued against the petitioner is set aside, the proceedings in respect of the petitioner would come to an end.

3. For the reasons recorded in my order dated 13th June, 2005 passed in Criminal Writ Petition No.213 of 2005 and order dated 21st June, 2005 passed in Criminal Application No.550 of 2005, the petitioner has an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my opinion, it would be appropriate that the petitioner prefers revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the petitioner to prefer revision before the concerned Sessions Court. The learned advocate for the petitioner states that the necessary revision would be preferred till 31.8.2005. In view of this statement, the trial Court shall not proceed with the trial till 31.8.2005. The petitioner is also granted exemption in respect of personal appearance before the trial Court till 31.8.2005. The learned advocate for the respondent i.e. original complainant fairly states that no objection would be raised in respect of delay in

filing revision before the learned Sessions Judge.

5. On the necessary revision being preferred by the petitioner before the concerned Sessions Court, the concerned Sessions Court shall dispose of the same on merits after hearing necessary parties.

6. Writ Petition is disposed of.

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 4506 OF 2005
IN
CRIMINAL WRIT PETITION NO. 500 OF 2005

Ashok Jayantilal Khandwala ...Applicant

Versus

State of Maharashtra & Anr ...Respondents

.....

Mr. Vivek Kantawala i/b M/s. Kantawala & Co. Advocate for Applicant

Mr. Arshad Haindaday, Advocate for Respondent No.2.

Mr. Rajesh More, A.P.P. for State.

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CORAM: SMT. V.K. TAHILRAMANI, J.

DATED: 26TH JULY, 2005

P. C.:-

. In view of the order passed in Criminal writ petition No. 500 of 2005, this application does not survive and the same is disposed of as infructuous.

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